

PTO/SB/ 28 (05-03)

Approved for use 4/30/2003, OMB 0851-0031

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)  
AB-165UIn re Application of: Whitehurst, et al.Application No.: 10/057,116Filed: January 24, 2002For: Fully Implantable Neurostimulator for Peripheral Nerve Stimulation as a Therapy for Chronic Pain

The owner\*, Advanced Bionics Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,735,475. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Signature

October 21, 2004  
Date

Bryant R. Gold, Reg. No. 29,715

Typed or printed name

(760) 788-8138 or (661) 362-1771

Telephone Number

- ☒ Please charge terminal disclaimer fee of \$110.00 under 37 CFR 1.20(d), to Deposit Account No. 50-0848. I have enclosed a duplicate copy of this sheet.

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REJECTION OVER A PRIOR PATENT**Docket Number (Optional)  
AB-165UIn re Application of: Whitehurst, et al.Application No.: 10/057,116Filed: January 24, 2002For: Fully Implantable Neurostimulator for Peripheral Nerve Stimulation as a Therapy for Chronic Pain

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October 21, 2004

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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**Docket Number (Optional)  
AB-165U

In re Application of: Whitehurst, et al.

Application No.: 10/057,116

Filed: January 24, 2002

For: Fully Implantable Neurostimulator for Peripheral Nerve Stimulation as a Therapy for Chronic Pain

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**Docket Number (Optional)  
AB-165U

In re Application of: Whitehurst, et al.

Application No.: 10/057,118

Filed: January 24, 2002

For: Fully Implantable Neurostimulator for Peripheral Nerve Stimulation as a Therapy for Chronic Pain

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